

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ANDRE WAUL,

Plaintiff,

vs

9:05-CV-24

JOHN E. CUNNINGHAM, JR., M.D.; STEVEN
VanBUREN, Regional Health Service Adm.;
RODD KOCH, MICHAEL ANUSZEWSKI, DANNY
PRECANIN, and VINCENT MENYA, Each Physical
Therapists; TIMOTHY WHALEN, M.D., MITCHELL
RUBINOVICH, M.D.; COREY, Corrections Sergeant;
and BAILEY, Corrections Officer,

Defendants.

APPEARANCES:

OF COUNSEL:

ANDRE WAUL
78-A-2915
Fishkill Correctional
Box 1245
Beacon, NY 12508

HON. ANDREW M. CUOMO
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State of New York
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Asst. Attorney General

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Attorneys for Defendants Koch, Anuszewski,
Preocanin and Menya
13 Columbia Circle
Albany, New York 12203

MATTHEW J. KELLY, ESQ.

DAVID N. HURD
United States District Judge

ORDER

Plaintiff, Andre Waul, brought this civil rights action pursuant to 42 U.S.C. § 1983. In a Report Recommendation dated January 4, 2007, the Honorable David R. Homer, United States Magistrate Judge, recommended that defendants Koch, Anuszewski, Preocanin and Menya's motion to dismiss be denied. The said defendants have filed objections to the Report-Recommendation.

Based upon a de novo review of the portions of the Report-Recommendation to which the said defendants have objected, the Report-Recommendation is accepted and adopted. See 28 U.S.C. 636(b)(1).

Accordingly, it is

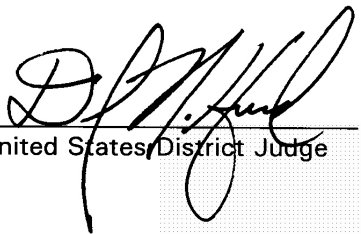
ORDERED that

1. The defendants Koch, Anuszewski, Preocanin and Menya's motion to dismiss is DENIED; and

2. Said defendants shall file and serve an answer to the amended complaint on or before February 16, 2007.

IT IS SO ORDERED.

Dated: February 2, 2007
Utica, New York.


United States District Judge